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State Representative • 3rd Assembly District

Assembly Bill 367
Law Enforcement Jurisdictional Responsibility in Emergency Detention Cases
Assembly Committee on Criminal Justice & Corrections
December 15, 2011

Thank you for the opportunity to testify on Assembly Bill 367 (AB 367), relating to law enforcement jurisdictional responsibility for the investigation, initiation, and completion of emergency detentions.

AB 367 provides much needed clarification on jurisdictional responsibility – from a law enforcement perspective – in emergency detention cases. The bill was originally drafted at the request of Chief Larry Seipel of the City of Chilton Police Department.

Under current law, a person can be taken into custody under Chapter 51 of the Wisconsin State Statutes (State Alcohol, Drug Abuse, Developmental Disabilities, and Mental Health Act) if a law enforcement officer has cause to believe that person is mentally ill, drug dependent, or developmentally disabled and the person exhibits behavior indicative that they are a threat to themselves or others.

The belief that a person poses a threat to themselves or others must be based on a specific recent act, attempt, threat, or omission by the individual, which is observed by, or reported to, a law enforcement officer or other person authorized to initiate an emergency detention.

The City of Chilton is home to the only hospital in Calumet County. It is not uncommon that an act, attempt, threat, or omission, which could result in physical harm, occurs in a neighboring jurisdiction, but the individual ultimately ends up at the hospital in the City of Chilton without having contact with another law enforcement agency.

Chapter 51, as currently written, is not clear as to which law enforcement agency is ultimately responsible for the emergency detention when the act or omission takes place in a jurisdiction other than the one in which a person is ultimately taken into custody. Therefore, the law enforcement community – including the Wisconsin Chiefs of Police Association – is seeking clarification and defined responsibility for investigating and facilitating emergency detentions.

AB 367 allows the law enforcement agency in the municipality in which a person is taken into custody to request the law enforcement agency for the municipality in which the person taken into custody committed the act, attempt, threat, or omission to investigate the incident and initiate and complete the emergency detention. The law enforcement agency for the municipality in which the incident occurred shall comply with such a request without undue delay.

This bill provides much needed clarity, yet is flexible enough to allow departments to work together (mutual aid, memorandum of understanding, etc.) when circumstances dictate.

It is my understanding that this situation is not unique to the City of Chilton, and in times of tight municipal budgets, these questions of jurisdictional responsibility in emergency detention cases seem to be on the rise across the state. Unfortunately, these situations hit rural communities with hospitals particularly hard. The police departments in these jurisdictions generally have only a small number of officers and very limited resources.


Finally, it is important to note that this bill is very narrowly structured as to only address law enforcement jurisdictional responsibility. **It is my intention that the language of AB 367 in no way alter the current law applicability of the other provisions of Chapter 51 as it relates to emergency detention procedures.** Unfortunately, Chapter 51 is well-known to have its fair share of problems in that it can be confusing and sometimes ambiguous. AB 367 aims to provide clarity in one small segment of administering Chapter 51. Everything else about Chapter 51 – good, bad or otherwise – is intended to remain unchanged by the provisions of this bill.



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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Criminal Justice and Corrections

FROM: Sarah Diedrick-Kasdorf, Senior Legislative Associate 

DATE: December 15, 2011

SUBJECT: Opposition to Assembly Bill 367 – Emergency Detentions

Assembly Bill 367 allows a law enforcement agency of a jurisdiction in which a person was taken into custody to request the law enforcement agency of the jurisdiction in which the person in custody committed the act, attempt, threat, or omission to investigate the act, attempt, threat, or omission and initiate and complete the emergency detention, if the act, attempt, threat, or omission occurred in a jurisdiction that is different than the one in which the person was taken into custody. The bill also requires the law enforcement agency in the jurisdiction in which the act, attempt, threat, or omission occurred to comply with a request to investigate, initiate, and complete the emergency detention.

After consulting with county human services agencies from across the state, the bill raises some concerns that counties hope to have addressed prior to passage of the bill. While we understand the author's intent is narrowly focused, the language of the bill may impact current practice with regard to emergency detentions, specifically regarding county of responsibility for approving the emergency detention, working relationships with local law enforcement agencies, and payment during the first three days of inpatient hospitalization.

WCA has met with the lead author of the bill who has agreed to work with county human services representatives and others to discuss issues surrounding the bill prior to passage. Our counties look forward to those discussions.

Thank you for considering our comments.

WISCONSIN HOSPITAL ASSOCIATION, INC.



To: Chair Bies, and Members of the Assembly Committee
on Criminal Justice and Corrections

From: Matthew Stanford, Vice President, Workforce Policy & Regulatory Affairs
Wisconsin Hospital Association.

Date: December 15, 2011

Re: Testimony for Information Only on AB 367 relating to law enforcement investigation, initiation, and
completion of emergency detention.

The Wisconsin Hospital Association (WHA), led by its Behavioral Health Task Force of mental health clinicians and leaders of hospitals throughout Wisconsin, has been working to find ways to encourage better collaboration between and among hospitals, county agencies, law enforcement and others that play critical roles in treating individuals with emergency mental health conditions. Patients with emergency mental health conditions are best served when that collaboration occurs.

WHA's Behavioral Health Task Force members support the bill's intent to encourage better collaboration among law enforcement agencies in regards to emergency detention. However, Task Force members have raised concerns that the phrase "*initiate and complete* the emergency detention procedure," in the bill could result in unintended consequences detrimental to patients that arrive at a hospital emergency department with an emergency mental health condition.

Task Force members were concerned that the bill as drafted could:

- Result in significant waits for patients in hospital emergency departments while the patient and hospital wait for the requested jurisdiction to come to the hospital to take custody of the individual.
- Result in individuals leaving the hospital emergency department without stabilization while waiting for the requested jurisdiction to come to the hospital to take custody of the individual.

WHA has had preliminary discussions with the Wisconsin Chiefs of Police Association to address the Task Force's concerns. WHA is committed to working with them and other stakeholders to make any necessary changes to the bill to avoid such unintended consequences to patients while preserving the intent of furthering better inter-agency collaboration.

Thank you.